

Marty Meehan, President
University of Massachusetts
Office of the President
1 Beacon Street, Floor 31
Boston, MA 02108

Re: Exclusion of Shiva Ayyadurai from U.S. Senate Debates

President Meehan,

Dr. Shiva Ayyadurai and Senator Elizabeth Warren are two of three candidates on the ballot for the November 2018 general election for United States Senate in Massachusetts. However, Dr. Shiva Ayyadurai will be prohibited from participating in any of the United States Senate debates sponsored by the University of Massachusetts. As you are aware, Dr. Ayyadurai is running as an Independent candidate, was the first to announce his candidacy, first on the ballot, and has been actively campaigning for the seat since February 2017. Dr. Ayyadurai's campaign committee has raised and spent roughly \$5 million, his candidacy has garnered national media attention, and in two earlier polls, he had showings at 25% and 27% against Elizabeth Warren in head-to-head matchups.

On the evening of August 30, 2018, Dr. Ayyadurai received a letter via email inviting him to participate in the October 15, 2018 debate hosted in part by the University of Massachusetts. His participation was contingent upon his candidacy "achiev[ing] a significant level of support" as gauged by "looking at three statewide opinion polls conducted by reputable news organizations or academic institutions prior to October 1, and average[ing] their figures." One or more of the news organizations whose polls were referenced are participating with the University system in staging the debate. If an average of 15 percent of respondents to those polls indicated support, typically measured by the visibility of Dr. Ayyadurai's candidacy e.g. if registered MA voters had heard of his campaign, he would be allowed to participate in the debate. This letter was signed by David Cash, Dean of the McCormack Graduate School of Policy and Global Studies at UMass Boston.

Unfortunately, through no fault of Dr. Ayyadurai and as a direct result of the University's debate consortium's actions, Dr. Ayyadurai's name has been outright excluded/deleted on the most important question used to determine his visibility from all known recent public polls with the exception of two polls conducted in 2017. The MassINC Polling Group/WBUR's poll this year, on March 16-18 and May 22-26, 2018, for example, removed his name on that most important and critical question on visibility. Similarly, Dr. Ayyadurai's name also does not appear on ANY questions on the Suffolk University Political Research Center/Boston Globe poll conducted June 8-12, 2018. These absences are conspicuous given those polls' inclusion of numerous other, less notable, candidates, and given that the visibility percentage is requisite to determine debate stage access.

Accordingly, the criteria the University of Massachusetts has set forth for inclusion in its U.S. Senate debate on October 15, 2018 will inevitably exclude Dr. Ayyadurai, a viable candidate, entitled to participate on equal footing with the nominees from the two major parties. Even more, we have discovered that three other debates, at least two of which are sponsored by the University of Massachusetts, were pre-arranged well in advance of the September 4, 2018 primaries, without Dr. Ayyadurai's knowledge or invitation, to which Senator Warren and the Republican candidate were invited, and without any indication what the University's published criteria under which Dr. Ayyadurai might be included or under which his participation might be earned.

Despite his clear status as a serious candidate (*i.e.* internal polling showing a strong portion of the electorate have heard of his candidacy at levels exceeding 30%, Google analytics search reveals that his popularity is 18,000 searches per month, whereas others such as the Republican candidate receive less than 3,000 searches per month, news organizations consider him a serious candidate and have given him national coverage, strong financial support evidenced by his multi-million dollar fundraising and spending, and the employment of campaign staff), it appears that the University of Massachusetts will be excluding Dr. Ayyadurai from its debates. Moreover, given that there are only three candidates and the debate stage will not be crowded, why are any filters being applied. One can only think that it is to exclude Dr. Ayyadurai, based on nothing more than his viewpoints.

Because the University of Massachusetts system is a public institution, such exclusion is violative of Dr. Ayyadurai's rights under the First Amendment. *See Ark. Educ. Tv Comm'n v. Forbes*, 523 U.S. 666, 682-83 (1998). The University's decision to utilize so-called "objective" polling as a means to exclude Dr. Ayyadurai from the debates will not save it because that polling conducted by the University's own co-venturers excludes him from the get-go.

Accordingly, with the desire to further open and inclusive political discourse, Dr. Ayyadurai, requests he be allowed to participate in any debate already agreed upon with Senator Warren, which the University of Massachusetts is a sponsor. Relative to the October 15 debate of which the University is also a sponsor, we request his name be included in ALL of the polling questions, in your co-venturers next round of public polling so that he is given a fair opportunity to earn a spot on the stage for that October 15 debate.

Please let us know by Wednesday, September 12 what actions the University intends to take to ensure Dr. Ayyadurai's First Amendment rights are protected, and that he is offered a fair opportunity to participate in the upcoming debates.

If we do not hear from you by next week, we intend to seek a preliminary injunction in federal court.

Sincerely,

/s/ *Timothy Cornell*

Timothy Cornell BBO 654412

/s/ *Jason Torchinsky*

Jason Torchinsky
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